

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

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IN RE:

CHRISTOPHER C. DONIGIAN,
d/b/a EMCON BUILDERS,
and SANDRA DONIGIAN,

Debtors

Case No: 08-12455-MWV
Chapter 13

* * * * *

LAWRENCE P. SUMSKI,
Chapter 13 Trustee,
Plaintiff

v.

CHRISTOPHER C. DONIGIAN, d/b/a
EMCON BUILDERS, JACOB DONIGIAN,
DONIGIAN PROPERTIES, LLC,
a/k/a DONIGIAN PROPERTIES,

Defendants

Adv. 10-1098-LHK

* * * * *

DEPOSITION OF

CHRISTOPHER C. DONIGIAN

This deposition taken at the Dahar Law
Offices, 20 Merrimack Street, Manchester,
New Hampshire, on Tuesday, March 15, 2011,
commencing at 10:00 a.m.

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3/15/11 C.C. DONIGIAN

1 APPEARANCES

2 For Christopher Donigian:

3 DAHAR LAW OFFICE
20 Merrimack Street
4 Manchester, New Hampshire 03101
By: Victor W. Dahar, Sr., Esq.
5 Eleanor W. Dahar, Esq.

6 For Chapter 13 Trustee:

7 SHEEHAN, PHINNEY, BASS + GREEN
1000 Elm Street, PO Box 3701
8 Manchester, New Hampshire 03105-3701
By: James S. LaMontagne, Esq.9
10 Court Reporter: Alix M. Godbout, LCR/RPR
NH LCR No. 29 (RSA 331-B)

11 Also present: Ms. Sweeney

12
13
14 STIPULATIONS15 It is agreed that the deposition shall be taken
16 in the first instance in stenotype and when
transcribed may be used for all purposes for which
17 depositions are competent under the Federal Rules of
Civil Procedure.18 Notice, filing, caption and all other formalities
19 are waived. All objections except as to form are
reserved and may be taken in court at time of trial.20 It is further agreed that if the deposition is
21 not signed within thirty days after submission to
counsel for the deponent, the signature of the
22 deponent is waived.

23

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1 **I N D E X**2 **WITNESS**

3 Christopher C. Donigian

4

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1 Q. So you have a special driver's license to be able
2 to drive these trucks for them?

3 A. Yes.

4 Q. And what type of license is that?

5 A. It's a commercial driver's license A called a
6 CDLA.

7 Q. And how long have you had that license for?

8 A. Since I was 18.

9 Q. And how old are you now, sir?

10 A. Forty.

11 Q. Prior to working for Charles George Company, what
12 did you do?

13 A. I had a -- I was building houses and doing
14 remodeling and additions on my own.

15 Q. And when you say on your own, did you have -- did
16 you have a company or were you doing it as a sole
17 proprietorship?

18 A. Sole proprietor.

19 Q. And what was the name of the -- what was the trade
20 name of the sole proprietorship?

21 A. Emcon Builders.

22 Q. And where did the name "Emcon" come from?

23 A. My daughter Emma and my son Connor.

3/15/11 C.C. DONIGIAN

1 Q. And how long were you building houses and, I
2 believe, you also said remodeling?

3 A. Yes.

4 Q. How long did you do that for?

5 A. About five years.

6 Q. So between 2004 and 2009?

7 A. Yeah. It may have been 2002. I'm not -- I'm not
8 positive.

9 Q. Do you know when Emcon was officially open for
10 business?

11 A. It was some -- it was sometime -- it was sometime
12 in 2002, when I had -- I had my truck lettered.

13 Q. Sir, are you on any prescription drugs or
14 medication today that might affect your ability to
15 tell the truth?

16 A. No.

17 Q. While you were working as Emcon Builders, how many
18 homes did you build?

19 A. Seven.

20 Q. And were all those homes built on lots that your
21 father owned?

22 A. Those seven were, yes.

23 I'm sorry. I need to correct myself. I

3/15/11 C.C. DONIGIAN

1 withholding a certain amount of money until those
2 punch list items were completed?

3 A. Yes.

4 Q. Okay. I'd like to -- and you testified earlier
5 that you built seven homes on lots that your
6 father owned; correct?

7 A. Yes.

8 Q. Okay. Do you remember where those lots were?

9 A. Yes.

10 Q. Where were they?

11 A. There were five in Fremont and there were two in
12 Allenstown.

13 Q. Do you know which homes came first, the ones in
14 Fremont or Allenstown?

15 A. Yes. The ones in Fremont were first.

16 Q. So you built all five in Fremont first. And then,
17 the last two homes were in Allenstown?

18 A. Yes.

19 Q. Okay. And the properties in Allenstown were on
20 Chestnut Street?

21 A. That's correct. Chestnut Drive.

22 Q. Chestnut Drive. Thank you.

23 I'd like to focus in on the transactions that

3/15/11 C.C. DONIGIAN

1 buyer or buyer's bank?

2 A. Yes.

3 Q. Did your father also finance construction for the
4 seven lots that you built on?

5 A. Yes.

6 Q. Did he finance construction for all seven?

7 A. Yes.

8 Q. Did he tell you, prior to construction, how much
9 he was willing to finance for each particular
10 home?

11 A. No.

12 Q. So did you have a blank check from your father?

13 A. No. It would go a lot like it went with the bank
14 from the Mulcahy project. I would -- when I'd
15 finish a certain aspect of the house, I would give
16 him a piece of paper asking for that amount of
17 money.

18 Q. Okay. But did your father ever say, for a
19 particular piece of property, "Chris, I know
20 you're going to build a Colonial. It shouldn't
21 cost you any more than \$150,000 to build, so
22 that's all I'm financing"?

23 A. No.

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1 you?

2 A. I don't. Just the date on the paper. I don't
3 remember when he gave it to me.

4 Q. Okay. As of the closing on 39 Chestnut Drive, was
5 the property -- was the property construction
6 completed?

7 A. Yes.

8 Q. And your father had financed -- your father didn't
9 owe any more to you with respect to construction
10 financing.

11 A. Could you restate that, please?

12 Q. Sure. As of the closing date on 39 Chestnut Drive
13 -- strike that.

14 After the closing date on 39 Chestnut Drive,
15 your father didn't lend to you any further
16 construction financing for 39 Chestnut Drive.

17 A. No.

18 Q. So, as of the closing on 39 Chestnut Drive, you
19 owed your father \$208,030.

20 A. That's what it says.

21 Q. Do you dispute that?

22 A. No. I have to reason to.

23 Q. Have you ever disputed an amount that your father

3/15/11 C.C. DONIGIAN

1 MR. LaMONTAGNE: Okay. Could we mark that as
2 Exhibit No. 4, please?

3 (C. Donigian Exhibit 4 marked for Id.)

4 Q. (BY MR. LaMONTAGNE) Mr. Donigian, you'd agree with
5 me that what has been marked as Exhibit No. 4 is a
6 one-page document; is that correct?

7 A. Yes.

8 Q. And it appears to be dated September 8th, 2007; is
9 that correct?

10 A. Correct.

11 Q. Okay. And could you tell me what this document
12 is?

13 A. This is the payoff for lot 12, 39 Chestnut Drive
14 in Allenstown.

15 Q. And it's a payoff from whom?

16 A. My father.

17 Q. And the total payoff owed to your father is
18 \$208,000 -- \$208,030?

19 A. That's correct.

20 Q. And it notes that \$140,000 has been paid; is that
21 correct?

22 A. Yes.

23 Q. Do you know when your father gave this payoff to

3/15/11 C.C. DONIGIAN

1 A. No.

2 Q. In those instances where there were not promissory
3 notes, how did you know how much the lot price
4 was?

5 A. Most of the time, he would just tell me in advance
6 what the lot was gonna cost.

7 Q. And did you -- did you expect to have to pay for
8 that lot at some point?

9 A. Yes.

10 Q. And when did you expect to have to pay for the
11 lot?

12 A. After closing.

13 Q. And how far after -- how long after closing would
14 you need to pay for the lot?

15 A. Normally, my father would give me -- either before
16 closing or after closing, he would give me a sheet
17 of paper that told me what I owed him.

18 Q. And but my question was: How long after closing
19 would you typically pay your father?

20 A. Normally, pretty much immediately after the check
21 would clear.

22 Q. Okay. And when you say "when the check would
23 clear," you're referring to the check from the

3/15/11 C.C. DONIGIAN

1 Q. Okay. So how did you know how much you could
2 spend in construction costs?

3 A. Well, at the time we were building, there was just
4 -- you know, pretty much, in the back of my mind,
5 I knew what it was gonna cost me and what I was
6 gonna sell it for. And I just took the draws as I
7 needed them, meaning I put in for the request as I
8 needed them.

9 Q. Weren't you ever concerned that your construction
10 costs would exceed your father's ability or desire
11 to loan money to you?

12 A. I was always concerned that I would not -- you
13 know, go over -- go over the limit, but I never
14 did.

15 Q. Prior to construction on a particular home, you
16 had a purchase-and-sales agreement with the buyer?

17 A. On the two that had -- I'm sorry. On the three
18 that I had agreements on them, yes.

19 Q. Okay. And the four homes that you did on spec,
20 you had a design of a specific home that you were
21 going to build for those four lots?

22 A. Yes.

23 Q. The financing that your father provided to you,

3/15/11 C.C. DONIGIAN

1 you knew this was -- that it was a loan; correct?

2 A. Yes.

3 Q. And you knew that he expected to be paid back.

4 A. Yes.

5 Q. And you expected to pay him back.

6 A. Yes.

7 Q. Do you know how he kept track of the money he lent
8 to you?

9 A. Yes, from the -- from the paperwork I would give
10 him.

11 Q. And so, at the -- so, every time a subcontractor
12 completed a portion of a job, you would submit,
13 essentially, an invoice to your father for a draw.

14 A. It wasn't every time a subcontractor would finish.
15 It would be an aspect of the whole part of the
16 house. It may be four or five subcontractors that
17 came into play, but, yes, that's what I would do.

18 Q. Did you keep track of the expenses that you were
19 spending, your construction expenses that you were
20 spending on each one of the seven homes?

21 A. Yes.

22 Q. And how did you do that?

23 A. From my invoices from the -- from the suppliers

3/15/11 C.C. DONIGIAN

1 CERTIFICATE
2

3 I, Alix M. Godbout, a Licensed Shorthand
4 Court Reporter and Notary Public for the State of New
5 Hampshire, do hereby certify that the foregoing is
6 a true and accurate transcript of the testimony of
7 CHRISTOPHER C. DONIGIAN, who was duly sworn, taken at
8 the place and on the date hereinbefore set forth, to
9 the best of my skill and ability under the conditions
10 present at the time.

11 I further certify that I am neither attorney
12 or counsel for, nor related to or employed by any
13 of the parties to the action in which this
14 deposition was taken; and further, that I am not
15 a relative or employee of any attorney or counsel
16 employed in this case, nor am I financially
17 interested in this action.

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21 Alix M. Godbout, LCR/RPR
22 (NH LCR No. 29)